

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND

BILL NO. 05-21 As Amended

Introduced by Council President Wagner at the request of the County Executive and
Council President Wagner

Legislative Day No. 05-12 Date April 19, 2005

AN EMERGENCY ACT to add new Article VI, Public School Development Impact Fee, to Chapter 123, Finance and Taxation, of the Harford County Code, as amended; to provide for the imposition of a school development impact fee; and generally relating to the establishment of the affected area, to the payment, collection and amount of school development impact fees and the exemption for certain types of development; and generally relating to a public school development impact fee.

By the Council, April 19, 2005

Introduced, read first time, ordered posted and public hearing scheduled

on: May 17, 2005

at: 7:15 p.m.

By Order: Barbara J. Ruth, Council Administrator

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on May 17, 2005, and concluded on, May 17, 2005.

Barbara J. Ruth, Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

WHEREAS, the Administration and the County Council realized in 2003 that there existed a need for a new revenue source for school acquisition, renovation, capital expenses and debt reduction; and

WHEREAS, the General Assembly, in 2004, adopted House Bill 965 (Article 24, Subtitle 10A, Harford County School Construction Financing, Section 9-10A-01); and

WHEREAS, House Bill 965 enabled the County to enact, as a local piece of legislation, a development impact fee on new construction and development; and

WHEREAS, a School Impact Fee study was prepared by Tischler & Associates, Inc. and presented to the County in 2004; and

WHEREAS, the revenues generated by the fee are to be used only for school construction, site acquisition, renovation, capital expenses and reduction of school debt.

NOW, THEREFORE,

Section 1. Be It Enacted By The County Council of Harford County, Maryland that Article VI, Public School Development Impact Fee, be, and it is hereby, added to Chapter 123, Finance and Taxation, of the Harford County Code, as amended, all to read as follows:

Chapter 123. Finance and Taxation

ARTICLE VI. PUBLIC SCHOOL DEVELOPMENT IMPACT FEE

SECTION 123-55. PURPOSE AND INTENT.

THE PURPOSE AND INTENT OF THIS ARTICLE IS:

A. TO ESTABLISH UNIFORM PROCEDURES FOR THE IMPOSITION, COLLECTION, EXPENDITURE AND ADMINISTRATION OF DEVELOPMENT IMPACT FEES IMPOSED ON NEW DEVELOPMENT. DEVELOPMENT, FOR PURPOSES OF THIS ARTICLE, MEANS ANY NEW RESIDENTIAL STRUCTURE FOR WHICH A BUILDING PERMIT IS

1 REQUIRED, BUT DOES NOT INCLUDE ANY RENOVATIONS, ADDITIONS OR
2 MODIFICATIONS TO AN EXISTING RESIDENTIAL STRUCTURE.

3 B. TO IMPLEMENT THE GOALS, OBJECTIVES AND POLICIES OF THE
4 HARFORD COUNTY SCHOOL CONSTRUCTION FINANCING ACT OF 2004 (ARTICLE 24,
5 SUBTITLE 10A, SECTION 9-10A-01 OF THE ANNOTATED CODE OF MARYLAND)
6 RELATING TO ASSURING THAT NEW DEVELOPMENT CONTRIBUTES ITS FAIR SHARE
7 TOWARDS THE COSTS OF PUBLIC SCHOOLS REASONABLY NECESSITATED BY SUCH
8 NEW DEVELOPMENT.

9 C. TO ENSURE THAT NEW DEVELOPMENT IS REASONABLY BENEFITTED BY
10 THE CONSTRUCTION OF NEW PUBLIC SCHOOLS BUILT IN WHOLE OR IN PART WITH
11 THE PROCEEDS OF DEVELOPMENT IMPACT FEES.

12 D. TO ENSURE THAT ALL APPLICABLE LEGAL STANDARDS AND CRITERIA
13 ARE PROPERLY INCORPORATED IN THESE PROCEDURES.

14 E. TO INCORPORATE HEREIN BY REFERENCE AS IF IT WERE FULLY STATED
15 THE SCHOOL IMPACT FEE REPORT DATED DECEMBER 2, 2004 PREPARED BY TISCHLER
16 & ASSOCIATES, INC.

17 **SECTION 123-56. GENERAL PROVISIONS; APPLICABILITY.**

18 A. TERM. THIS CHAPTER AND THE PROCEDURES ESTABLISHED HEREIN
19 SHALL REMAIN IN EFFECT UNLESS AND UNTIL REPEALED, AMENDED OR MODIFIED
20 BY THE GOVERNING BODY IN ACCORDANCE WITH APPLICABLE STATE LAW AND THE
21 COUNTY CODE, ORDINANCES AND RESOLUTIONS.

22 B. AFFECTED AREA.

(1) COUNTY-WIDE APPLICATION. THIS CHAPTER SHALL APPLY TO ALL NEW DEVELOPMENT WITHIN THE COUNTY, INCLUDING NEW DEVELOPMENT WHICH TAKES PLACE WITHIN THE BOUNDARIES OF ANY MUNICIPALITY.

(2) MUNICIPALITIES. IMPACT FEES ON NEW DEVELOPMENT WITHIN MUNICIPALITIES SHALL BE COLLECTED BY THE COUNTY AT THE BUILDING PERMIT STAGE.

C. ANNUAL REVIEW.

(1) PREPARATION OF ANNUAL REPORT. AT LEAST ONCE EVERY YEAR, BUT NOT LATER THAN MAY OF EACH YEAR, BEGINNING MAY 31, 2006, AND PRIOR TO THE COUNTY'S ADOPTION OF THE ANNUAL BUDGET ORDINANCE, THE TREASURER SHALL COORDINATE THE PREPARATION AND SUBMISSION OF AN ANNUAL REPORT TO THE COUNTY COUNCIL, THE HARFORD COUNTY DELEGATION AND LOCAL MUNICIPALITIES ON THE REVENUES GENERATED BY THE DEVELOPMENT IMPACT FEE AND HOW THOSE REVENUES WERE SPENT.

(2) SUBMISSION OF DEVELOPMENT IMPACT FEE ANNUAL REPORT AND COUNTY COUNCIL ACTION. THE COUNTY COUNCIL, WHEN IT RECEIVES THE ANNUAL REPORT, MAY TAKE SUCH ACTIONS AS IT DEEMS APPROPRIATE, INCLUDING, BUT NOT LIMITED TO, REQUESTING ADDITIONAL DATA OR ANALYSES AND HOLDING PUBLIC WORKSHOPS OR PUBLIC HEARINGS.

D. EFFECT OF PAYMENT OF DEVELOPMENT IMPACT FEE ON OTHER APPLICABLE COUNTY LAND USE, ZONING, PLATTING, SUBDIVISION OR DEVELOPMENT REGULATIONS.

(1) THE PAYMENT OF DEVELOPMENT IMPACT FEES SHALL NOT ENTITLE THE APPLICANT TO A BUILDING PERMIT UNLESS ALL OTHER APPLICABLE LAND USE, ZONING, PLANNING, ADEQUATE PUBLIC FACILITIES, FOREST CONSERVATION, PLATTING, SUBDIVISION OR OTHER RELATED REQUIREMENTS, STANDARDS AND CONDITIONS HAVE BEEN MET. SUCH OTHER REQUIREMENTS, STANDARDS AND CONDITIONS ARE INDEPENDENT OF THE REQUIREMENT FOR PAYMENT OF A DEVELOPMENT IMPACT FEE.

(2) NOTHING IN THIS ARTICLE SHALL AFFECT, IN ANY MANNER, THE PERMISSIBLE USE OF PROPERTY, DENSITY/INTENSITY OF DEVELOPMENT, DESIGN AND IMPROVEMENT STANDARDS OR OTHER APPLICABLE STANDARDS OR REQUIREMENTS OF THE ZONING CODE OR SUBDIVISION REGULATIONS OF THE COUNTY OR ANY MUNICIPALITY, WHERE APPLICABLE.

SECTION 123-57. REFUNDS.

A. ELIGIBILITY FOR REFUND.

(1) EXPIRATION OR REVOCATION OF BUILDING PERMIT. AN APPLICANT WHO HAS PAID A DEVELOPMENT IMPACT FEE FOR A NEW DEVELOPMENT FOR WHICH THE NECESSARY BUILDING PERMIT HAS EXPIRED OR FOR WHICH THE BUILDING PERMIT HAS BEEN REVOKED PRIOR TO CONSTRUCTION SHALL BE ELIGIBLE TO APPLY FOR A REFUND.

(2) FAILURE OF THE COUNTY TO USE OR APPROPRIATE DEVELOPMENT IMPACT FEE FUNDS WITHIN TIME LIMIT. THE CURRENT PROPERTY OWNER MAY APPLY FOR A REFUND OF DEVELOPMENT IMPACT FEES PAID BY AN APPLICANT IF THE COUNTY HAS FAILED TO USE OR APPROPRIATE THE

DEVELOPMENT IMPACT FEES COLLECTED FROM THE APPLICANT WITHIN 8 YEARS
FROM THE DATE OF PAYMENT.

(3) ABANDONMENT OF DEVELOPMENT AFTER INITIATION OF
CONSTRUCTION. AN APPLICANT WHO HAS PAID A DEVELOPMENT IMPACT FEE FOR A
NEW DEVELOPMENT FOR WHICH A BUILDING PERMIT HAS BEEN ISSUED AND
PURSUANT TO WHICH CONSTRUCTION HAS BEEN INITIATED, BUT WHICH
CONSTRUCTION IS ABANDONED PRIOR TO COMPLETION AND ISSUANCE OF A
CERTIFICATE OF OCCUPANCY, SHALL NOT BE ELIGIBLE FOR A REFUND UNLESS THE
UNCOMPLETED BUILDING IS COMPLETELY DEMOLISHED.

B. REFUNDS SHALL BE MADE ONLY TO THE CURRENT OWNER OF
PROPERTY ON WHICH THE NEW DEVELOPMENT WAS PROPOSED OR OCCURRED.

SECTION 123-58. SERVICE AREA.

THE APPLICABLE SERVICE AREA (THE "SERVICE AREA") FOR IMPOSITION OF A
PUBLIC SCHOOL DEVELOPMENT IMPACT FEE IS THE ENTIRE COUNTY, INCLUDING ALL
MUNICIPALITIES.

SECTION 123-59. AMOUNT OF IMPACT FEE.

ALL NEW DEVELOPMENT IN THE SERVICE AREA SHALL BE SUBJECT TO THE
PAYMENT OF A PUBLIC SCHOOL DEVELOPMENT IMPACT FEE PAYABLE AT THE TIME
OF APPLICATION FOR A BUILDING PERMIT PURSUANT TO THIS ARTICLE, AND ALL
SUCH FUNDS COLLECTED SHALL BE DEPOSITED IN A SPECIAL FUND, AS FOLLOWS:

	IMPACT FEE PER
RESIDENTIAL DEVELOPMENT	DWELLING UNIT
SINGLE-FAMILY DETACHED	\$8,269 <u>\$6,000</u>

1 TOWNHOUSE/DUPLEX \$5,720 \$4,200

2 ALL OTHER RESIDENTIAL (INCLUDING MOBILE HOMES) ~~\$1,637~~ \$1,200

3 ON JULY 1, 2006 THROUGH JUNE 30, 2007 THE DEVELOPMENT IMPACT FEES

4 PROVIDED FOR HEREIN SHALL BE INCREASED TO \$7,442 FOR A SINGLE-FAMILY

5 DETACHED, \$5,148 FOR A TOWNHOUSE/DUPLEX AND \$1,473 FOR ALL OTHER

6 RESIDENTIAL DWELLINGS (INCLUDING MOBILE HOMES); AND ON JULY 1, 2007 AND

7 THEREAFTER THE DEVELOPMENT IMPACT FEES SHALL BE INCREASED TO \$8,269 FOR

8 A SINGLE-FAMILY DETACHED, \$5,720 FOR A TOWNHOUSE/DUPLEX AND \$1,637 FOR

9 ALL OTHER RESIDENTIAL DWELLINGS (INCLUDING MOBILE HOMES).

10 **SECTION 123-60. EXEMPTIONS.**

11 A. THE DEVELOPMENT OR CONSTRUCTION OF HOUSING FOR THE ELDERLY
12 SHALL BE EXEMPT FROM PAYMENT OF A PUBLIC SCHOOL DEVELOPMENT IMPACT
13 FEE, PROVIDED THAT:

14 (1) ALL REQUESTS FOR EXEMPTION UNDER THIS SECTION SHALL BE
15 SUBMITTED TO THE DIRECTOR OF PLANNING AND ZONING OR APPLICABLE
16 MUNICIPAL PLANNING DIRECTOR; AND

17 (2) ALL SUCH HOUSING SHALL CONTAIN A DEED RESTRICTION
18 RECORDED AGAINST THE PROPERTY, IN FORM SATISFACTORY TO THE HARFORD
19 COUNTY ATTORNEY OR MUNICIPAL ATTORNEY, IF APPLICABLE, WHICH DEED
20 RESTRICTION SHALL PROVIDE, AMONG OTHER THINGS, THAT SUCH HOUSING IS
21 RESTRICTED TO OCCUPANCY BY OLDER PERSONS, IN COMPLIANCE WITH THE TERMS
22 AND PROVISIONS OF THE FEDERAL FAIR HOUSING ACT AND THE HARFORD COUNTY
23 ZONING CODE, AS AMENDED.

1 B. IN ADDITION TO THE ABOVE, CONTINUING CARE RETIREMENT
2 COMMUNITIES (“CCRC”) AND THOSE USES LISTED UNDER TRANSIENT HOUSING IN
3 THE ZONING CODE OR COMPARABLE MUNICIPAL ZONING DESIGNATION, WITH THE
4 EXCEPTION OF MIXED USES, ARE ALSO EXEMPT FROM PAYMENT OF THE
5 DEVELOPMENT IMPACT FEE.

6 C. REDEVELOPMENT, RECONSTRUCTION OR REPLACEMENT OF AN
7 EXISTING RESIDENTIAL STRUCTURE THAT RESULTS IN NO ADDITIONAL HOUSING
8 UNITS SHALL ALSO BE EXEMPT FROM THE PAYMENT OF THE DEVELOPMENT IMPACT
9 FEE.

10 **SECTION 123-61. CREDITS.**

11 A. ANY APPLICANT WHO CONVEYS LAND TO THE COUNTY THAT IS SUITABLE
12 FOR USE FOR SCHOOL FACILITIES, AS DETERMINED BY THE COUNTY, OR WHO
13 CONSTRUCTS A SCHOOL FACILITY CAPITAL PROJECT THAT IS COMPLETED,
14 RECEIVED AND ACCEPTED BY THE COUNTY SHALL RECEIVE A CREDIT
15 AGAINST THE DEVELOPMENT IMPACT FEE DUE.

16 B. THE CREDIT RECEIVED UNDER THIS SECTION SHALL BE EQUAL TO THE VALUE
17 OF THE LAND CONVEYED OR THE FACILITY CONSTRUCTED AND ACCEPTED BY
18 THE COUNTY AS DETERMINED BY AN APPRAISAL OBTAINED BY THE COUNTY
19 IN WHICH THE APPRAISAL SHALL BE BASED ON THE FAIR MARKET VALUE OF
20 THE LAND OR FACILITY.

21 C. CONSTRUCTION OF ANY SCHOOL FACILITY UNDER THIS SECTION SHALL BE IN
22 ACCORDANCE WITH ALL COUNTY AND STATE DESIGN STANDARDS

1 D. LAND WHICH IS THE SUBJECT OF A CREDIT UNDER THIS SECTION SHALL BE
2 CONVEYED NO LATER THAN THE TIME AT WHICH THE DEVELOPMENT IMPACT
3 FEE IS DUE. THE CREDIT FOR CONSTRUCTION OF A SCHOOL FACILITY SHALL
4 BE GRANTED WHEN THE CONSTRUCTION IS COMPLETED AND ACCEPTED BY
5 THE COUNTY.

6 E. NO CREDIT SHALL BE GIVEN FOR THE CONVEYANCE OF LAND OR THE
7 CONSTRUCTION OF FACILITIES THAT ARE OTHERWISE REQUIRED UNDER ANY
8 PROVISION OF STATE OR COUNTY LAW.

9 **SECTION 123-62. AFFORDABLE HOUSING.**

10 THE COUNTY SHALL PAY THE IMPACT FEE FOR ANY AFFORDABLE HOUSING
11 PROVIDED THAT THE HOUSING SHALL BE:

12 A. CONSTRUCTED BY A NON-PROFIT CORPORATION;

13 B. SUBSIDIZED, IN WHOLE OR IN PART, BY A MUNICIPAL CORPORATION,
14 THE COUNTY, THE STATE OR THE FEDERAL GOVERNMENT; AND

15 C. OWNED BY A LOW INCOME FAMILY, AS THAT TERM IS DEFINED BY
16 CURRENT FEDERAL LAW REGARDING AFFORDABLE HOUSING.

17 Section 2. And Be It Further Enacted, That should the County Council adopt legislation providing
18 for another funding source for school construction, school site acquisition, school renovation, school
19 capital expenses or the reduction of school debt, the Council shall reconsider the imposition of the
20 public school development impact fee.

21 Section 3. And Be It Further Enacted, That this Act is declared to be an emergency act necessary to
22 protect the safety and welfare of students by providing the revenues needed to construct facilities to
23 relieve school overcrowding and further necessary for the proper operation of County government by

BILL NO. 05-21

As Amended

- 1 providing for a balanced budget for fiscal year 2005 to 2006 and shall take effect on the date it becomes
2 law.
- 3 Section 4. And Be It Further Enacted, That this Act shall apply to building permits applied for on
4 or after July 1, 2005.

EFFECTIVE: June 10, 2005

*The Council Administrator does hereby certify that
fifteen (15) copies of this Bill are immediately available for
distribution to the public and the press.*



Council Administrator

BILL NO. 05-21**As Amended**HARFORD COUNTY BILL NO. 05-21 As AmendedBrief Title Impact Fee

is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECTBarbara J. Ruth
Council AdministratorDate June 7, 2005**ENROLLED**Robert S. Hauger
Council PresidentDate June 7, 2005**BY THE COUNCIL**

Read the third time.

Passed: LSD 05-17

Failed of Passage: _____

By Order

Barbara J. Ruth
Council AdministratorSealed with the County Seal and presented to the County Executive for approval this 8th day of June, 2005 at 3:00 p.m.Barbara J. Ruth
Council Administrator**BY THE EXECUTIVE**James M. Harbison
COUNTY EXECUTIVEAPPROVED: Date June 10, 2005**BY THE COUNCIL**

This Bill No. 05-21 As Amended, having been approved by the Executive and returned to the Council, becomes law on June 10, 2005.

EFFECTIVE DATE: June 10, 2005

Barbara J. Ruth
Barbara J. Ruth, Council Administrator**BILL NO. 05-21****As Amended**